IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

F.A.O. No.405 of 1987
Date of Decision: 18.10.2006

Smt.Murti Devi and others.

..... Appellants

Versus

Dalip Singh and another.

..... Respondents

CORAM: Hon'ble Mr.Justice Mahesh Grover

....

Present: Shri Hemant Bassi, Advocate for the appellants.
None for the respondents

....

Mahesh Grover,J.

The claimants have preferred the present appeal against award dated 28.2.1987 of Motor Accident Claims Tribunal, Hissar (hereinafter described as `the Tribunal') passed in case No. 20-MACT of 1986 whereby a sum of Rs.96,000/- has been awarded to them on account of death of one Des Raj, aged 38 years, in a motor vehicular accident.

The only question that has to be determined in the present appeal in the absence of any appeal or cross objections by the respondents is qua the amount of compensation to be awarded to the claimants.

Shri Hemant Bassi, learned counsel for the appellants

contended that the deceased was working as a Munim at a firm in Tohana and was getting monthly salary of Rs.750/-, besides earning Rs.2200/- per month from dairy business. He further contended that the Tribunal has ignored this aspect of the matter altogether and has awarded inadequate compensation.

I have thoughtfully considered the contentions of the learned counsel for the appellant and have perused the record.

No evidence has been produced by the appellants to show that the deceased was actually working as a Munim or that he was having some earning from selling milk. In the absence of any such evidence, the deceased ought to have been assessed as an ordinary labourer and keeping in view the date of accident which is 10.4.1986, an unskilled labourer would atleast be earning Rs.900/- per month approximately. Therefore, it would be safe to take the income of the deceased as Rs.900/- per month.

The Tribunal had deducted 1/3rd of the income assessed to determine the monthly dependency of the claimants, which is again on higher side as the deceased was survived by his widow, four minor children and his father. Keeping in view the number of dependents, the deduction should have been 1/5th of the income assessed.

In view of the above, the monthly dependency comes to Rs.720/- (Income =Rs.900/- per month (minus) 1/5th deduction, i.e. Rs.180/-). In my opinion, the multiplier of `16' has correctly been applied by the Tribunal keeping in view the age of the deceased. Thus, the total compensation works out as Rs.1,38,240/- (Rs.720 x 12 x 16) to which the claimants are held entitled to. Besides, they shall get the enhanced amount of compensation along with interest at the rate of 7.5% per annum from the

date of petition till the actual date of payment.

In the result, the appeal is allowed and the impugned award is modified to the extent indicated hereinabove.

October 18,2006 (Mahesh Grover)
"SCM" Judge